

AMENDED IN SENATE MAY 25, 2012  
AMENDED IN ASSEMBLY JANUARY 11, 2012  
AMENDED IN ASSEMBLY JANUARY 4, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1337**

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**Introduced by Assembly Member Alejo**

February 18, 2011

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An act to amend Section 7630 of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as amended, Alejo. Parent and child relationship.

Existing law authorizes any interested party to bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship that is presumed under certain circumstances.

This bill would require notice of the proceeding to be given, as specified, to the child's relatives within the 2nd degree and to the person having physical custody of the child, if the child's other parent has died and there are no existing court orders or pending court actions involving custody or guardianship of the child.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 7630 of the Family Code is amended to  
2     read:

1     7630. (a) A child, the child's natural mother, a man presumed  
2 to be the child's father under subdivision (a), (b), or (c) of Section  
3 7611, an adoption agency to whom the child has been relinquished,  
4 or a prospective adoptive parent of the child may bring an action  
5 as follows:

6     (1) At any time for the purpose of declaring the existence of the  
7 father and child relationship presumed under subdivision (a), (b),  
8 or (c) of Section 7611.

9     (2) For the purpose of declaring the nonexistence of the father  
10 and child relationship presumed under subdivision (a), (b), or (c)  
11 of Section 7611 only if the action is brought within a reasonable  
12 time after obtaining knowledge of relevant facts. After the  
13 presumption has been rebutted, paternity of the child by another  
14 man may be determined in the same action, if he has been made  
15 a party.

16     (b) Any interested party may bring an action at any time for the  
17 purpose of determining the existence or nonexistence of the father  
18 and child relationship presumed under subdivision (d) or (f) of  
19 Section 7611.

20     (c) Except as to cases coming within Chapter 1 (commencing  
21 with Section 7540) of Part 2, an action to determine the existence  
22 of the father and child relationship may be brought by the child or  
23 personal representative of the child, the Department of Child  
24 Support Services, the mother or the personal representative or a  
25 parent of the mother if the mother has died or is a minor, a man  
26 alleged or alleging himself to be the father, or the personal  
27 representative or a parent of the alleged father if the alleged father  
28 has died or is a minor.

29     (d) (1) If a proceeding has been filed under Chapter 2  
30 (commencing with Section 7820) of Part 4, an action under  
31 subdivision (a) or (b) shall be consolidated with that proceeding.  
32 The parental rights of the presumed father shall be determined as  
33 set forth in Sections 7820 to 7829, inclusive.

34     (2) If a proceeding pursuant to Section 7662 has been filed under  
35 Chapter 5 (commencing with Section 7660), an action under  
36 subdivision (c) shall be consolidated with that proceeding. The  
37 parental rights of the alleged natural father shall be determined as  
38 set forth in Section 7664.

39     (3) The consolidated action under paragraph (1) or (2) shall be  
40 heard in the court in which the proceeding under Section 7662 or

Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless the court finds, by clear and convincing evidence, that transferring the action to the other court poses a substantial hardship to the petitioner. Mere inconvenience does not constitute a sufficient basis for a finding of substantial hardship. If the court determines there is a substantial hardship, the consolidated action shall be heard in the court in which the paternity action is filed.

(e) (1) If any prospective adoptive parent who has physical custody of the child, or any licensed California adoption agency that has legal custody of the child, has not been joined as a party to an action to determine the existence of a father and child relationship under subdivision (a), (b), or (c), or an action for custody by the alleged natural father, the court shall join the prospective adoptive parent or licensed California adoption agency as a party upon application or on its own motion, without the necessity of a motion for joinder. A joined party shall not be required to pay a fee in connection with this action.

(2) If a man brings an action to determine paternity and custody of a child who he has reason to believe is in the physical or legal custody of an adoption agency, or of one or more persons other than the child's mother who are prospective adoptive parents, he shall serve his entire pleading on, and give notice of all proceedings to, the adoption agency or the prospective adoptive parents, or both.

(f) A party to an assisted reproduction agreement may bring an action at any time to establish a parent and child relationship consistent with the intent expressed in that assisted reproduction agreement.

(g) (1) In an action to determine the existence of the father and child relationship brought pursuant to subdivision (b), if the child's other parent has died and there are no existing court orders or pending court actions involving custody or guardianship of the child, then the persons having physical custody of the child shall be served with notice of the proceeding at least 15 days prior to the hearing, either by mail or in any manner authorized by the court. If any person identified as having physical custody of the child cannot be located, the court shall prescribe the manner of giving notice.

(2) If known to the person bringing the parentage action, relatives within the second degree of the child shall be given notice

1 of the proceeding ~~in accordance with the provisions of the Code~~  
2 ~~of Civil Procedure for the service of process in a civil action in~~  
3 ~~this state at least 15 days prior to the date stated in the notice of~~  
4 ~~the proceeding~~ *the hearing, either by mail or in any manner*  
5 *authorized by the court.* If a person identified as a relative of the  
6 second degree of the child cannot be located, or his or her  
7 whereabouts are unknown or cannot be ascertained, the court shall  
8 ~~prescribe an alternative~~ *the* manner of giving notice, or shall  
9 dispense with giving notice to that person.  
10 (3) Proof of notice pursuant to this subdivision shall be filed  
11 with the court before the proceeding to determine the existence of  
12 the father and child relationship is heard.